

REMARKS

After entry of this Amendment, claims 1-6, 8-18, and 20-22 are pending in the application. This Amendment simplifies the issues on appeal by removing the rejections of claims 1, 4, 9, and 14 under 35 U.S.C. §112, first paragraph.

Reconsideration of the application as amended is requested.

In the Office Action dated September 16, 2002, the Examiner rejected claim 1 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor, at the time the application was filed, had possession of the claimed invention. The Examiner specifically objected to the claim reciting in part "an inner conical nozzle surface extending from the annular shoulder". It is submitted that this recitation is clearly shown in Figure 8 of the drawings. The specification has been amended into paragraph [0027] to recited that "a conical external surface or main body portion 16a of the insert positioned within an inner conical nozzle surface or conical bore 24e defined within the lower end 24b of the tube member with an outwardly extending annular flange or upper flange portion 16b of the insert seating on an inwardly extending annular shoulder 24d defined by the tube member at the intersection of the main body portion of the tube member and the lower end 24b of the tube member". This configuration is shown in the detailed drawing Figure 8, and therefore does not add any new subject matter to the application as originally filed. Entry of the amendments to paragraph [0027] is requested.

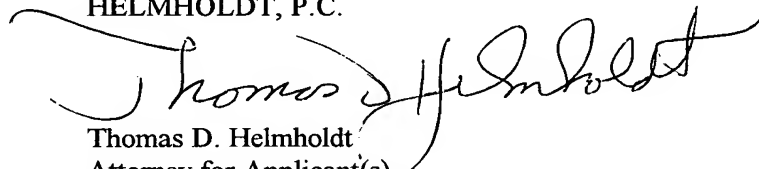
Claims 1, 4, 9, and 14 stand rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, at the time that the application was filed, had possession of the claimed invention. In particular, the Examiner objects to the term "monolithic" with respect to the tube member 24 and the term "monolithic" with respect to the insert 16. It is submitted that the monolithic, or single piece, configuration of the tube member can best be seen in Figure 9, while the monolithic, or single piece, configuration of the insert 16 can best be seen in Figure 8. Since the monolithic, single piece, configuration of the tube member 24 and insert 26 were shown in the original drawings as filed with the

application, paragraphs [0026] and [0027] have been amended to incorporate this terminology into the specification. It is submitted that this Amendment does not introduce any new subject matter into the application. Reconsideration of the Examiner's rejection is requested.

The amendment does not raise any new issues requiring further consideration and/or search. The amendment does not raise the issue of new matter, since these recitations are shown in Figures 8 and 9 as originally filed.. The amendment places the application in better form for appeal by materially reducing or simplifying the issues for appeal. The amendment does not present additional claims without cancelling a corresponding number of finally rejected claims. This amendment could not have been earlier presented, since the Examiner had not previously objected to the terms being rejected under 35 U.S.C. §112, first paragraph, so this is Applicant's attorney's first opportunity to address the Examiner's rejection based on this rejection.

It is respectfully submitted that this Amendment traverses and overcomes all of the Examiner's objections and rejections to the application as originally filed. It is further submitted that this Amendment has antecedent basis in the application as originally filed, including the specification, claims and drawings, and that this Amendment does not add any new subject matter to the application. Reconsideration of the application as amended is requested. It is respectfully submitted that this Amendment places the application in suitable condition for allowance; notice of which is requested.

Respectfully submitted,
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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the specification:

Replace paragraph [0026] and [0027] on page 5 with the following:

[0026] Mix tube 14 (Figs. 2,4,8,9) is formed of a suitable plastic material and includes a monolithic, single piece, tube member 24 (as best seen in Fig. 9), and a plurality of mix elements 26 and 28 comprising alternating left and right hand helical elements positioned in stacked fashion within tube member 24. The upper end of tube member 24 defines a large mouth mounting portion 24a and the lower end of the tube member defines a conical nozzle tip portion 24b which is stepped at 24c to allow the tube member to be selectably clipped at a selected step to selectably vary the size of the discharge opening of the tube member. Mix tube 14 may comprise, for example, a tube assembly available from ConProTec, Inc. of Salem, New Hampshire under the tradename "STATOMIX"®.

[0027] Dispensing means, such as tip insert or nozzle insert, hereinafter referred to as monolithic, single piece, insert 16 (as best seen in Fig. 8) is formed of a suitable plastic material and is shaped and configured to fit within the lower end 24b of tube member 14 with a conical external surface or main body portion 16a of the insert positioned within [a] an inner conical nozzle surface or conical bore 24e defined within the lower end 24b of the tube member with an outwardly extending annular flange or upper flange portion 16b of the insert seating on [a] an inwardly extending annular shoulder 24d defined by the tube member at the intersection of the main body portion of the tube member and the lower end 24b of the tube member.